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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAT.APP.(F.C.) 35/2018**

SAHIB SINGH Appellant

Through: Mr Sanjeev Mahajan, Adv
versus

SHEETAL Respondent

Through: Mr Vaibhav Bharti, Adv

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

O R D E R

% 16.08.2018

CM No. 5564/2018 (delay)

The delay of 53 days in filing the appeal is condoned.

The application stands disposed of.

MAT.APP.(F.C.) 35/2018 and CM No. 5563/2018 (stay)

The present appeal is directed against the order dated 12.10.2017 vide which the maintenance has been fixed by the Family Court on an application filed by the wife under Section 24 of the Hindu Marriage Act, 1955.

In this case the marriage between the parties was solemnised on 21.06.2010. A male child was born out of their wedlock on 20.02.2012 who is in the care and custody of the appellant husband. Considering the take home salary of the appellant, who is a constable in the Delhi Police, @ Rs.38,961/- per month, the Family Court has fixed the maintenance @ Rs.15,000/- per month for the wife. The Court while fixing the maintenance took into consideration a rent agreement showing that wife is paying Rs. 7000/- as rent plus Rs.1000/- for electricity and water charges etc.

Counsel for the appellant submits that the appellant has to look

after himself, his growing son and an old aged mother who is getting pension of only Rs.1000/- per month only. He submits that the Family Court has not taken into account the settled law as to how the salary is to be divided. Mr Mahajan, learned counsel for the appellant, further submits that there is no cogent explanation for the wife to stay independently especially when she is not working and thus the rent agreement is a sham document.

Per contra, learned counsel for the respondent submits that post filing of the application the salary of the appellant has increased.

Counsel for the appellant has prayed that the amount of maintenance fixed for the wife should be reduced. Counsel for the respondent has submitted that after the filing of the application seeking maintenance the salary of the appellant has increased and therefore this change of circumstance should also be factored in while fixing the maintenance.

After some hearing in the matter, it was agreed that taking into consideration that the husband has to look after his minor child and also the increased salary, the order of the family Court dated 12.10.2017 is modified. The maintenance is fixed @ Rs. 13,000/- per month to be paid from April 2016 onwards. All arrears be cleared within a period of three months.

Binding the parties to the stand taken in Court, the appeal and the application are disposed of.

Dasti.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 16, 2018/SU